

1 Mark d-up Sp cification Paragraphs

The paragraph beginning at page 6, line 6, is shown with changes:

- ISO 830:19[9]81 then goes on to distinguish general purpose
5 containers from specific purpose containers. At ISO 830:19[9]81 section
4.1.1.1 a "general purpose container" is defined as a "[f]reight container,
totally enclosed and weather-proof, having a rigid roof, rigid side walls, rigid
end walls and a floor, having at least one of its end walls equipped with
doors and intended to be suitable for the transport of cargo of the greatest
10 possible variety." The rectangular platform 2 of the present invention is not
a general purpose container as defined.

The paragraph beginning at page 6, line 14, is shown with changes:

- 15 A "specific purpose container" is considered a "general term applicable
to all general cargo containers having constructional features either for the
"specific purpose" of facilitating packing and emptying other than by means
of doors at one end of the container, or for other specific purposes such as
ventilation." ISO 830:19[9]81 section 4.1.1.2. The rectangular platform 2 of
20 the present invention is a sub-group of specific purpose containers as
defined.

The paragraph beginning at page 6, line 21, is shown with changes:

- 25 The term "rectangular platform" as used in the claims is considered to
encompass the term "platform based container open sided" as defined in ISO
830:19[9]81 at section 4.1.1.2.3, except any limitations as to series
designations should be omitted from the definition of "rectangular platform".
The term "platform based container open sided" is "applied to any general
30 cargo container which does not have rigid side walls or equivalent structures
capable of withstanding all of the loads that may be withstood or transmitted
by a side wall of a general purpose container and which, for this reason has a
base structure similar to that of a platform (container). (See 4.1.1.2.4)."
ISO 830:19[9]81, section 4.1.1.2.3.

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The paragraph beginning at page 6, line 31, is shown with changes:

1 ISO 830: 19[9]81 at section 4.1.1.2.4 defines a "platform (container)"
as a "[l]oadable platform having no superstructure whatever but having the
same length and width as the base of a container of the same series and
5 equipped with top and bottom corner fittings, located in the plan view as on
containers of series 1, so that some of the same securing and lifting devices
can be used."

The paragraph beginning at page 7, line 1, is shown with changes:

10 ISO 830:19[9]81 discusses three main sub-types of platform based
container open sided. The first is "the platform based container open sided
with complete superstructure" which is defined as a "[p]latform-based
container, having a permanently fixed longitudinal load-carrying structure
15 between ends at the top." ISO 830:19[9]81, section 4.1.1.2.3.1. This
sub-type is further divided into "those having a rigid roof and rigid end walls
(open sided); . . . those having an open top and rigid end walls; . . . [and]
those having an open top and open ends (skeletal)." ISO 830:19[9]81,
section 4.1.1.2.3.1. The second sub-type are "platform based containers
20 with incomplete superstructure and fixed ends" which are defined as a
"[p]latform based container without any permanently fixed longitudinal
load-carrying structure between ends other than at the base." ISO
830:19[9]81, section 4.1.1.2.3.2. The third sub-type defined is a "platform
based container with incomplete superstructure and folding ends." This
25 sub-type is defined at ISO 830:19[9]81, section 4.1.1.2.3.3, as a
"[p]latform based container with incomplete superstructure (as envisaged in
4.1.1.2.3.2) but having folding end frames with a complete transverse
structural connection between corner posts."

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1 Marked-up Claims

1. (Once amended) A livestock pen for transporting livestock by rail, truck or on a container ship with other standardized freight containers, comprising:

5 a. a platform based container open sided, said platform based container open sided lacking rigid side walls and having a base similar to that of a platform container, said platform based container open sided being formed with corner fittings to allow stacking of said rectangular platform based container open sided with other said
10 standardized freight containers, and said platform based container open sided being rectangular in shape; [and]

b. a plurality of panels erected on and connected to said platform based container open sided, creating an enclosed area on said rectangular platform based container open sided for containing
15 livestock; and

c. an impermeable membrane installed in said enclosed area, said impermeable membrane covering said base and extending up said panels a selected distance for containing waste produced by said livestock.

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2. (Once amended) A livestock pen for transporting livestock by rail, truck or on a container ship with other standardized freight containers, comprising:

a. a platform based container open sided, said platform based container open sided lacking rigid side walls and having a base similar to that of a platform container, said platform based container open sided being formed with corner fittings to allow stacking of said rectangular platform based container open sided with other said
25 standardized freight containers, and said platform based container open sided being rectangular in shape; [and]
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b. at least one panel erected on said platform based container open sided such that an enclosed area on said platform based container open sided for containing livestock exists; and

c. an impermeable membrane installed in said enclosed area, said impermeable membrane covering said base and extending up said
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1 enclosed area a selected distance for containing waste produced by
said livestock.

3. (Once amended) The livestock pen of claim 1, wherein [A livestock
5 pen for transporting livestock by rail, truck or on a container ship with other
standardized freight containers, comprising]:

a. said platform based container open sided comprises: [a
rectangular platform having]

1. a base having a top and a bottom,

2. a perimeter extending around said top of said base
[rectangular platform], defined by two side edges and two end
edges,

3. said side edges and said end edges meeting at four
corners,

4. said rectangular platform based container open sided
having four posts of equal height, attached to said base
[rectangular platform], located at said four corners and
extending from said top of said base [rectangular platform],

5. said posts together with said two side edges and said
two end edges defining four perimeter planar areas extending
perpendicular to said base [rectangular platform] and from said
top of said base [rectangular platform] at said perimeter of said
base [rectangular platform],

6. at least one of said perimeter planar areas being open to the
air during transit of said rectangular platform based container
open sided],

7. said rectangular platform being of standardized dimensions,
formation and configuration such that said rectangular platform
is suitable for transport on said container ship stacked with
other said standardized freight containers]; and wherein

b. [a] at least one of said plurality of panels erected on and
connected to said rectangular platform based container open sided,
creating an enclosed area on said rectangular platform based container
open sided for containing livestock, extends across said one of said
four perimeter planar areas open to said air and extending
perpendicular to said base.

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4. (Once amended) The livestock pen of claim 2, wherein [A livestock pen for transporting livestock by rail truck, or on container ship with other standardized freight containers, comprising]:

a. said platform based container open sided comprises: [a rectangular platform having]

1. a base having a top and a bottom,

2. a perimeter extending around said top of said base [rectangular platform], defined by two side edges and two end edges,

3. said side edges and said end edges meeting at four corners,

4. said rectangular platform based container open sided having four posts of equal height, attached to said base [rectangular platform], located at said four corners and extending from said top of said base [rectangular platform],

5. said posts together with said two side edges and said two end edges defining four perimeter planar areas extending perpendicular to said base [rectangular platform] and from said top of said base [rectangular platform] at said perimeter of said base [rectangular platform],

6. at least one of said perimeter planar areas being open to the air during transit of said rectangular platform based container open sided [,

7. said rectangular platform sided being of standardized dimension, formation and configuration such that said rectangular platform is suitable for transport on said container ship stacked with said other standardized freight containers]; and wherein

b. said at least one panel erected on said rectangular platform based container open sided such that an enclosed area on said rectangular platform based container open sided for containing livestock exists, extends across said one of said four perimeter planar areas open to said air and extending perpendicular to said base.

13. (Once amended) The livestock pen of claim 1, wherein:

1 one of said panels is formed with a flange hook that anchors said panel to said rectangular platform based container open sided.

25. (Once amended) The livestock pen of claim 2, wherein said panel
5 comprises [A panel for constructing a livestock pen for transporting livestock by rail, truck, or on a container ship, comprising]:

- a. a frame having a top and a bottom; and
- b. a flange hook mounted to the bottom of said frame that anchors said panel to said rectangular platform based container open sided.

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30. (Once amended) A method of transporting livestock, comprising:

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- a. erecting an enclosure on a platform based container open sided with panels, said platform based container open sided lacking rigid side walls and having a base similar to that of a platform container, said platform based container open sided being formed with corner fittings to allow stacking of said rectangular platform based container open sided with other said standardized freight containers, and said platform based container open sided being rectangular in shape, said enclosure having an impermeable membrane installed in said enclosure, said impermeable membrane covering said base and extending up said enclosure a selected distance for containing waste produced by said livestock;

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- b. loading livestock into said enclosure;
- c. loading said platform based container with said livestock onto a means of transport;
- d. moving said means of transport;
- e. unloading said livestock from said enclosure.

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REMARKS

By this amendment, claims 1 — 4, 9, 13, 17, 21, 25 — 28 and 30 — 33 are pending in the application. There are now 16 total claims pending in the application. The independent claims are now claims 1, 2 and 30.

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Applicant hereby requests examination of the application with the preliminary amendments contained herein.

Changes to the Specification

All of the changes to the specification correct the same typographical error. The reference published by the International Organization of Standardization identified as number 830 was published in 1981, not 1991. The correct listing of this reference appears on page 5, line 30, where it is first mentioned.

15 Changes to the Claims

Of the remaining claims in this application, Applicant has made all of the amendments made in the parent application. See Applicant's amendment filed June 8, 2000. These amendments were primarily made to better explain Applicant's use of the term "platform based container open sided."

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Applicant has also amended the claims in light of the examiner's last office action, dated January 30, 2001, in the parent application of this file

U.S. Patent 3,386,600, granted to Betjemann

In the last office action, dated January 30, 2001, in the parent application of this file, the examiner rejected claims 1—4 under 35 USC §102(b) as being anticipated by U.S. Patent 3,386,600, granted to Betjemann (Betjemann '600).

With respect to claims 1 and 2, the examiner argued that Betjemann '600 taught a platform based container open sided having at least one panel erected thereupon to create an enclosed area or enclosure that was capable of containing livestock.

Applicant has amended claims 1 and 2 to now require that an impermeable membrane be installed in the enclosed area or enclosure and that the impermeable membrane cover the base and extend up the enclosed area a selected distance for containing waste produced by the livestock.

1 No such impermeable membrane is taught in Betjemann '600, especially since Betjemann '600 does not appear to have contemplated the transport of livestock.

5 This impermeable membrane was also claimed in claims 5 -- 9 and is now more specifically described in the foregoing amendments. Applicant would like to note that in the examiner's office action of January 30, 2001, it appears that the examiner considered the impermeable membrane to be a roof or cover for the entire structure that would protect the cargo being transported therein from rain and moisture. See the examiner's office action
10 at page 5, first paragraph. Applicant's respectfully disagree with this interpretation by the examiner. There is no support for such an interpretation in the specification, and in fact, such a structure for protecting the livestock is only described in the specification at page 19, line 35 through page 20, line 5 as mesh or a tarp.

15 No new matter is added by the additional language to claims 1 and 2. Support for the changes is found in the specification at page 9, lines 19 - 28 and page 19, lines 16 - 30 and in the drawings, especially figure 9.

Applicant feels that claims 1 and 2 are now clearly distinguished from Betjemann '600, and asks that the examiner allow these claims over
20 Betjemann '600.

Furthermore, as with claims 1 and 2, since the examiner rejected claims 3 and 4 on the basis of Betjemann '600 alone, and Applicant believes that Betjemann '600 does not teach the impermeable membrane as now required in claims 1 and 2, Applicant believes that claims 3 and 4 should also
25 be allowed over Betjemann '600.

In the last office action dated January 30, 2001, in the parent application of this file, the examiner also rejected claims 5--8 and 30 - 33 under 35 USC §103(a) as being rendered obvious by U.S. Patent 3,386,600, granted to Betjemann (Betjemann '600).

30 Claims 5 though 8 have been canceled from the application, their limitations having been incorporated into claims 1 and 2. As discussed above with respect to claims 1 and 2, Applicant believes that the examiner was mistaken in his interpretation of claims 5 -- 8.

As with claims 1 -- 4 discussed above, Applicant believes that
35 Betjemann '600 does not teach the impermeable membrane as now required in claims 1 and 2. Furthermore, Applicant has amended claim 30 to require

- 1 an impermeable membrane for containing the waste produced by the
livestock. Claims 31 -- 33 depend from claim 30, incorporating all of its
limitations. Applicant believes that claims 30 -- 33 should also be allowed
over Betjemann '600, since Betjemann '600 teaches no such impermeable
5 membrane.

U.S. Patent 3,386,600, granted to Betjemann in combination with other art

In the last office action dated January 30, 2001, in the parent
application of this file, the examiner rejected claims 9 — 12, 13 — 16, 17 —
10 24, and 25 — 28 under 35 USC §103(a) as being rendered obvious by U.S.
Patent 3,386,600, granted to Betjemann '600 in combination with a plurality
of other granted patents.

Applicant would like to first note that the examiner never cited any
prior art in combination with Betjemann '600 that actually taught a platform
15 based container open sided that was adapted for shipping livestock that used
an impermeable membrane as now required in claims 1, 2 and 30. Second,
Betjemann '600, itself, does not contemplate transporting livestock. Third,
of the references cited by the examiner in combination with Betjemann '600
that related to standardized shipping, none appear to teach the shipping of
20 livestock. Finally, of the references cited by the examiner in combination
with Betjemann '600 that related to containing livestock, none appear to
indicate that they can be adapted to be used on standardized container ships.

Further, the examiner again rejected claims 13 — 16 under 35 USC
§103(a) as being rendered obvious by Betjemann '600 in light of U.S. Patent
25 4,470,231, granted to Lewis (Lewis '231). The examiner argues that it
would have been obvious to provide the panels of Betjemann '600 with the
flange hooks taught by Lewis '231.

Applicant has carefully reviewed Lewis '231. Applicant respectfully
disagrees that figures 1 through 6 generally show flange hooks. Applicant
30 believes that the best description of what may be the flange hooks on the
panels identified by the examiner begins at column 2, line 67 and ends at
column 3, line 42. The only structures on the panels 38 and 68 that the
Applicant identifies as being somewhat similar to flange hooks of the present
claims are the seal flanges 52 and 54. These seal flanges 52 and 54 are not
35 designed to anchor the panels 28 and 68 to the semi-trailer, but to provide

1 weather tight seals. Thus, Applicant does not believe that Lewis '231 can
be combined with Betjemann '600 to render the amended claims obvious.

Therefore, Applicant believes that claims 9 -- 28 are also allowable
over the prior art.

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Conclusion

In view of the above, it is submitted that claims are in condition for
allowance. Allowance of the claims at an early date is solicited.

The undersigned wishes to state that if the Examiner has questions
10 about this response, the undersigned would be most happy to try to answer
them on the telephone.

Respectfully submitted,

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